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Patent  
030727.0042.CIP1

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Bookser *et al.*

Serial No.: 09/801,933

Filed: March 7, 2001

Title: **NOVEL ARYL FRUCTOSE-1,6-  
BIPHOSPHATASE INHIBITORS**

Group Art Unit: 1624

Examiner: T. McKenzie

Box Non-Fee Amendment  
Commissioner for Patents  
Washington, D.C. 20231

**RESPONSE TO RESTRICTION REQUIREMENT**

Dear Sir:

This communication is responsive to the Written Restriction Requirement mailed February 6, 2002. As this response is being timely filed within the one-month statutory period for response, it is believed that no fee is due. If, however, any fee should become due or credit become payable during the pendency of this application, the Examiner is authorized to charge or credit the same to deposit account number 50-1273.

**The Restriction Requirement**

The Examiner has required restriction to one of the following Groups:

**CERTIFICATE OF MAILING  
(37 C.F.R. §1.8a)**

I hereby certify that this paper (along with anything referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to Box Non-Fee Amendment, Commissioner for Patents, Washington, D.C. 20231.

3/4/02  
Date of Deposit

Jim C. Youke/  
Name of Person Mailing Paper  
Jim C. Youke  
Signature of Person Mailing Paper

- I. Claim 2, drawn to phenyl compounds of formula I(b) with  $X^3-X^5$  = carbon, classified in class 562, subclass 8, among others.
- II. Claims none, drawn to pyridine compounds, compounds of formula I(b) with one of  $X^3-X^5$  = nitrogen, classified in class 546, subclass 22, among others.
- III. Claims none, drawn to thiophene compounds, compounds of formula I(a) with either  $G^2$  or  $G^3$  = sulfur, classified in class 549, subclass 6, among others.
- IV. Claims none, drawn to furan compounds, compounds of formula I(a) with either  $G^2$  or  $G^3$  = oxygen, classified in class 549, subclass 218, among others.
- V. Claims none, drawn to oxazoles and thiazoles, compounds of formula I(a) with either  $G^2$  or  $G^4$  = sulfur or oxygen and  $G^3$  = nitrogen, classified in class 548, subclass 119, among others.
- VI. Claims none, drawn to all other heteroaryl compounds, classified in class 544, subclass 232, among others.

The Examiner further states that Claims 1 and 3-36 link all groups.

Group I is hereby elected, with traverse. Withdrawal of the Restriction Requirement is requested.

The Examiner contends that the inventions are distinct, because the heterocyclic core of the structure given in claim 1 is the ring  $R^5$ . The Examiner states:

This aromatic ring is a mandatory feature and ranges in size from five to six atoms with multiple possible heteroatoms. These multiple claimed rings are chemically non-equivalent and are not art-recognized as sharing the same biological properties. Inventions I-VI have acquired a separate status in the art as shown by their different classifications, thus the patent search required for Group I is not co-extensive with that required for Groups II-VI. The basic names of these heterocycles differ, thus the literature search for these various species will be divergent.

Applicants respectfully submit that it would not be an undue burden to examine all of the Groups together. The fact that components have different names does not mean that there is an undue burden. In addition, the Examiner has acknowledged the presence of linking Claims 1 and 3-36. The Applicants

also believe that Claim 2 is a linking claim. According to MPEP § 809, "to be complete, a reply to a restriction requirement made according to this section need only include a proper election." MPEP § 809 also states, "linking claims must be examined with the invention elected, and should any linking claim be allowed the restriction requirement must be withdrawn." Therefore, the Applicants believe that if Group I is allowable, the Examiner should proceed with the examination of the other Groups.

Additionally, the Applicants believe that since the linking claims must be examined with the invention elected, the burden on the Examiner to examine Groups I through VI would not be undue.

For the foregoing reasons, the Applicants respectfully request the Withdrawal of the Restriction Requirement.

Respectfully Submitted,

Date:

3/4/02

By:

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